

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.3441 OF 1989

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
  2. To be referred to the reporters or not ?
  3. Whether their lordships wish to see the fair copy of the judgment ?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
  5. Whether it is to be circulated to the Civil Judge?

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G.S.R.T.C.  
versus  
SHRI K.S.DABHI

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Appearance:

MR HC RAWAL for petitioner  
MR PRABHAKAR UPADHYAY for respondent

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Coram: MR.JUSTICE S.K. Keshote,J  
Date of decision: 31/07/2000

C.A.V. JUDGMENT

#. Heard the learned counsel for the parties.

#. In this case, the award passed by the Labour Court, Nadiad on 26th September, 1988, in Reference (LCN) No.91 of 1985 is wholly perverse and it cannot be allowed to stand.

#. It is unfortunate that the Labour Courts in this State are under misconception of law that as they are Labour Courts they are meant to give reliefs to the labourers. It is to be stated that they are proceeding in the matters as if they are the final authority in the departmental inquiries. The respondent-workman was chargesheeted with serious charge of taking money from the passengers and not issuing tickets. It is a grave and serious misconduct. In fact, it is a misappropriation of the Corporation money. Charge was found proved against him and thereafter punishment order has been passed by disciplinary authority and his services were brought to an end. Industrial dispute has been raised by respondent-workman which has been refereed to the Labour Court for adjudication. The respondent-workman, by filing Purshis ex.8, has given up challenge to the legality and validity of the domestic inquiry. The Labour Court, after considering the written document ex.7 and the papers relating to inquiry, the reasons given by the inquiry officer, held that it is just and reasonable decision. It has also further said that the reasons given by the inquiry officer in support of its report are legal and valid and charge is proved in the inquiry which was conducted against the delinquent workman after following principles of natural justice. The Labour Court has recorded finding of fact that the charges levelled against the workman are very serious. Another finding of fact has also been recorded that the workman has failed to prove that he was dismissed from service by keeping grudge against him. After recording all these findings, instead of rejecting the Reference, the Labour Court has observed that, "in spite of this fact, considering the 20 years' long service rendered by the applicant, I am of the opinion that the applicant should be given an opportunity to improve and for the irregularity committed by him it is not just and proper to dismiss him from the services. By exercising powers vested in me by Section 11(A) of the Industrial Disputes Act, 1947, I find it just and proper to reduce punishment". Further reason has been given that, dismissal will result deprivation of bread and butter to him as well as family members permanently. Punishment has been given not to grant backwages. Non granting of backwages is not a punishment. It is a case where in fact, the Labour Court has given premium to the workman

for his serious and grave misconduct of misappropriation of Corporation money. Where the charges are of misappropriation of Corporation money, minimum penalty should have been only of dismissal or removal of that person from service. This charge has been proved and it is not a very relevant consideration that the workman has 20 years' service, he should have been given any concession. It is also equally no consideration that in case dismissal order is maintained, it will result in deprival of bread and butter to him as well as family members. If these are taken to be relevant considerations then this penalty of dismissal, removal or termination will become redundant and nugatory. Rule will be that whatever may be the misappropriation or embezzlement or other grave and serious misconduct, veto will remain with the Labour Court to give whatever it thinks fit by way of punishment. The rule will be then to reinstate the workman to give one more opportunity in all the cases. In such matters, this approach will result in encouraging corruption amongst employees of the Corporation. Corruption is already at ransom amongst employees of the Corporation which is clearly borne out from the cases of this nature which are coming up before the court everyday.

#. In the result, this special civil application succeeds and the same is allowed and award passed by the Labour Court, Nadiad on 26th September, 1988, in Reference (LCN) No.91 of 1985 is quashed and set aside. Rule is made absolute accordingly. No order as to costs.

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(sunil)